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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/945,111	08/31/2001	Gary R. Klein	10010453-1	2097
29053	7590	08/04/2005	EXAMINER	
DALLAS OFFICE OF FULBRIGHT & JAWORSKI L.L.P. 2200 ROSS AVENUE SUITE 2800 DALLAS, TX 75201-2784			DUNCAN, MARC M	
		ART UNIT		PAPER NUMBER
		2113		

DATE MAILED: 08/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/945,111	KLEIN ET AL.
	Examiner Marc Duncan	Art Unit 2113

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 27 May 2005.  
 2a) This action is FINAL.                            2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1 and 3-25 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) 6,7,24 and 25 is/are allowed.  
 6) Claim(s) 1,3-5,8-16 and 19-23 is/are rejected.  
 7) Claim(s) 17 and 18 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 31 August 2001 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

## **DETAILED ACTION**

### ***Status of the Claims***

Claims 1, 3-5, 8-16 and 19-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buzsaki in view of How Networks Work (HNW).

Claims 17 and 18 are objected to.

Claims 6-7 and 24-25 are allowed.

### ***Claim Objections***

Claims 17-18 are objected to because of the following informalities: In line 11 of claim 17, there is a tilde in front of the word logging. This appears to be inadvertent and should be removed. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.

2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1, 3-5, 8-16 and 19-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buzsaki in view of How Networks Work (HNW).

Regarding claim 1:

Buzsaki teaches executing a program on a processor-based device that presents a user interface for defining a management policy in Fig. 7 and col. 4 lines 1-6.

Buzsaki teaches receiving input from a user identifying management action to be performed by said management policy in col. 2 lines 55-57, col. 4 lines 1-6 and col. 4 lines 27-28.

Buzsaki teaches receiving input from a user specifying a modifiable process flow for said management policy to utilize in performing said management action in col. 4 lines 1-6.

Buzsaki does not explicitly teach the managed system being a network element of a communication network. Buzsaki does, however, teach the managed system being a computer system.

HNW explicitly teaches the managed system being a network element of a communication network on pages 56-57. HNW teaches that a personal computer can be used as a network element of a communication network.

It would have been obvious to one of ordinary skill in the art at the time of invention to combine the network teaching of HNW with the computer system of Buzsaki.

One of ordinary skill in the art at the time of invention would have been motivated to combine the teachings because Buzsaki teaches a computer system. HNW discloses that using a PC as a network element provides excellent performance and flexibility in paragraph 2, line 6.

Regarding claim 3:

Buzsaki teaches wherein said management policy is invoked for performing said management action responsive to detection of a fault condition for at least one system managed by said management system in col. 3 lines 34-39.

Regarding claim 4:

Buzsaki teaches wherein said management policy identifies said fault condition and said at least one network element for which said management action is to be invoked in Fig. 5-6 and col. 6 lines 8-65.

Regarding claim 5:

Buzsaki teaches wherein said management policy is represented by a software object stored to a data storage device communicatively accessible by said management system in Fig. 4, col. 5 lines 28-29 and col. 5 lines 50-54. The policy is stored as a software object in the database.

Regarding claim 8:

Buzsaki teaches wherein said defining said management policy includes creating a new management policy in col. 4 lines 3-6.

Regarding claim 9:

Buzsaki teaches wherein said defining said management policy includes modifying an existing management policy in col. 4 lines 3-6.

Regarding claim 10:

Buzsaki teaches receiving input from a user for arranging at least one action to be performed for said management action in a process list to specify said process flow in Fig. 5, col. 4 lines 1-6 and col. 6 lines 28-30. The table of process activities is a process list that corresponds to the process transition logic table that specifies the process flow.

Regarding claim 11:

Buzsaki teaches storing said management action to a software object defining said management policy in Fig. 4-5 and col. 6 lines 8-24.

Regarding claim 12:

Buzsaki teaches storing said management action to a process list attribute of said software object, wherein said process list attribute identifies said process flow for said management policy in Fig. 5 and col. 6 lines 25-43.

Regarding claim 13:

Buzsaki teaches a software program stored to a data storage device, said software program executable to present a user interface for defining a management policy for controlling behavior of a management system in col. 4 lines 1-6.

Buzsaki teaches at least one processor-based device operable to execute said software program in Fig. 7.

Buzsaki teaches at least one input device communicatively coupled to said at least one processor-based device to allow input from a user to said software program to identify a management action to be performed by said management policy and to specify a modifiable process flow for said management policy to utilize in performing said management action in Fig. 7, col. 2 lines 55-57, col. 4 lines 1-6 and col. 4 lines 27-28.

Buzsaki does not explicitly teach the managed system being a network element of a communication network. Buzsaki does, however, teach the managed system being a computer system.

HNW explicitly teaches the managed system being a network element of a communication network on pages 56-57. HNW teaches that a personal computer can be used as a network element of a communication network.

It would have been obvious to one of ordinary skill in the art at the time of invention to combine the network teaching of HNW with the computer system of Buzsaki.

One of ordinary skill in the art at the time of invention would have been motivated to combine the teachings because Buzsaki teaches a computer system. HNW discloses that using a PC as a network element provides excellent performance and flexibility in paragraph 2, line 6.

Regarding claim 14:

Buzsaki teaches at least one processor-based device operable to execute said management policy to control behavior of said management system in managing at least one computer system in col. 3 lines 34-39 and col. 5 lines 40-42.

Regarding claim 15:

Buzsaki teaches wherein said data storage device comprises at least one selected from the group consisting of random access memory (RAM), disk drive, floppy disk, Compact Disc (CD), Digital Versatile Disc (DVD), any other type of optical storage medium and any combination thereof in col. 7 lines 33-35.

Regarding claim 16:

Buzsaki teaches wherein said management policy is represented by a software object stored to a data storage device communicatively accessible by said management system in Fig. 4, col. 5 lines 28-29 and col. 5 lines 50-54. The policy is stored as a software object in the database.

Regarding claim 19:

Buzsaki teaches wherein said software program is operable to receive input from a user comprising input for arranging at least one action to be performed for said management action in an order that specifies said process flow in Fig. 5, col. 4 lines 1-6 and col. 6 lines 28-30.

Regarding claim 20:

Buzsaki teaches arranging management actions in a user-defined manner, said user-defined manner dictating a modifiable process flow for a management policy to utilize in performing management actions upon invocation of said management policy in Fig. 5, col. 2 lines 55-57, col. 4 lines 1-6, col. 4 lines 27-28 and col. 6 lines 44-65.

Buzsaki teaches defining a management policy having attributes that control behavior of a management system in managing a computer system in Fig. 4, col. 5 lines 28-29 and col. 5 lines 50-54.

Buzsaki teaches a process list attribute having said management actions included therein in Fig. 5 and col. 6 lines 44-65.

Buzsaki does not explicitly teach the managed system being a network element of a communication network. Buzsaki does, however, teach the managed system being a computer system.

HNW explicitly teaches the managed system being a network element of a communication network on pages 56-57. HNW teaches that a personal computer can be used as a network element of a communication network.

It would have been obvious to one of ordinary skill in the art at the time of invention to combine the network teaching of HNW with the computer system of Buzsaki.

One of ordinary skill in the art at the time of invention would have been motivated to combine the teachings because Buzsaki teaches a computer system. HNW discloses that using a PC as a network element provides excellent performance and flexibility in paragraph 2, line 6.

Regarding claim 21:

Buzsaki teaches at least one attribute that identifies a circumstance for which said management policy is to be invoked in col. 6 lines 8-24. In the example, "undeliverable e-mail" is a circumstance for which the management policy is to be invoked.

Regarding claim 22:

Buzsaki teaches wherein said circumstance includes identification of a particular type of fault condition for at least one network element in col. 6 lines 8-24. In the example, "undeliverable e-mail" is a circumstance for which the management policy is to be invoked.

Regarding claim 23:

Buzsaki teaches a name attribute specifying a user defined name for said management policy, wherein said name attribute is not said at least one attribute that identifies said circumstance for which said management policy is to be invoked in Fig. 5 item "160."

### ***Response to Arguments***

Applicant's arguments filed 5/27/05 have been fully considered but they are not persuasive.

Applicant's arguments with respect to claims 1, 3-5, 8-16 and 19-23 concerning the combinability and motion to combine the Buzsaki and Winokur references have been considered but are moot in view of the new ground(s) of rejection.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., applicant's definition of management policy) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc Duncan whose telephone number is 571-272-3646. The examiner can normally be reached on M-F 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Beausoliel can be reached on 571-272-3645. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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